IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

FAO.No. 268 of 2007()

AGAINST THE ORDER DATED 06/08/2007 IN IA 2642/07 IN
OS.935/2005 of PRL.SUB COURT,THRISSUR
.....

APPELLANT/7TH DEFENDANT RESPONDENT

VIJAYAN,S/O. RAMANI, PUZHANKARA HOUSE,
GURUVAYOOR ROAD,THRISSUR-2.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENTS: PLAINTIFF/PETITIONER

INDIRA,W/O. KANDANINJATTU KRISHNANKUTTY
KARTHIKA, VELLATTU LANE, THRISSUR TALUK.

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & V.K.MOHANAN, JJ.

F.A.O.NO.268 OF 2007

Dated this the 12th day of September, 2007

JUDGMENT

Raman, J.

This is an appeal against the order passed in I.A.No.2642/207 in O.S.No.935/2005 on the file of the Principal Sub Court, Thrissur. Appellant is the additional 7th defendant impleaded. The suit is one for partition. During the pendency of the partition suit one of the co-owners, the 3rd defendant in the suit, assigned a portion of the property in favour of the 7th defendant (appellant herein). The present application was filed seeking an injunction against the appellant not to construct any building in the said property or to assign or alienate or encumber the property during the pendency of the suit. It was contended on behalf of the petitioner/respondent that the transfer is hit by the provisions contained in Section 52 of the Transfer of Property Act. The appellant contended that he is a bona fide purchaser for valuable consideration and that he had no knowledge about the pendency of the proceedings and therefore opposed the injunction application.

2. After considering the evidence on record and after taking into consideration the rival submissions made by the parties, the court below granted injunction as prayed for, against which the present appeal is preferred.

3. We have heard the learned counsel for the appellant. In the factual situation and since the property was transferred during the pendency of the suit, it cannot be said that the order passed by the court below is in any way vitiated. Therefore, we are not inclined to admit the appeal in file. However, in view of the fact that the injunction has been granted in favour of the respondent herein, any delay in the disposal of the suit will adversely affect the interest of the appellant herein, in case his contentions are ultimately upheld.

4. In such circumstances, we direct the court below to expedite the trial of the suit and finally dispose of the same as expeditiously as possible, at any rate, within a period of six months. We make it clear that any observation or finding in the order impugned in the appeal on merit will not in any way influence the mind of the court below in its ultimate decision, to be based on the evidence on record and after hearing all the

parties.

Produce a copy of this judgment before the court below for information and compliance.

P.R.RAMAN,
Judge.

V.K.MOHANAN,
Judge.

kcv.